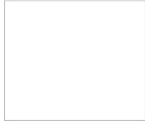


Fwd: PTT Document Preservation Memorandum

From: Emily Murphy <ewmurphy@gmail.com>
Date: Fri, 16 Jun 2017 18:49:04 +0000
Message-ID: <CAKkOHQap0f6+ffV3F1iXb=Qj5KvdCAN4xrTzNawj4B2bgmiz2g@mail.gmail.com>
Subject: **Fwd PTT Document Preservation Memorandum**
To: "richard beckler@gsa.gov" <richard.beckler@gsa.gov>
X-Source-Folder: 2018-000466--richard.beckler@gsa.gov_0
X-Email-Hash-MD5: af4c41aad45f38e5c1e285ceb3d986e6

----- Forwarded message -----

From: Kory Langhofer <(b) (6)>
Date: Thu, Jun 15, 2017 at 9:48 PM
Subject: PTT Document Preservation Memorandum
To: ewmurphy@gmail.com <ewmurphy@gmail.com>



Legal Memorandum

Privileged and Confidential

DATE: June 15, 2017
TO: All Presidential Transition Team Personnel
FROM: General Counsel's Office
RE: Document Preservation

As you know, there are several pending investigations into potential attempts by Russian interests to influence the 2016 election and related issues. In order to assist these investigations, the Presidential Transition Team and its current and former personnel have a responsibility to ensure that, to the extent potentially relevant documents exist, they are properly preserved.

As a former staffer or volunteer of the Presidential Transition Team, you have a duty to preserve any physical and electronic records that may be related in any way to the subject matter of the pending investigations, as described below in more detail. You must preserve any written documents that you have, or that are reasonably in your possession, custody or control, as well as any electronic information stored on your computer, smart phone, or other data systems. Electronically stored information includes, for example, e-mails; voicemails; text messages; instant messages; social media posts; Word or WordPerfect documents; spreadsheets; databases; telephone logs; audio recordings; videos; photographs or images; information contained on desktops, laptops, tablet computers, smartphones, or other portable devices; calendar records and diary data. If information is in both electronic and paper forms, you should preserve both forms. Preservation may require you to disable any automatic archiving or deletion functions on your computer, smart phone, or other data system. Failure to follow these protocols could result in criminal or civil penalties, and could form the basis of legal claims, legal presumptions, or jury instructions relating to spoliation of evidence.

Specifically, to the extent they exist, please preserve all such records that relate in any way to the following subject areas:

1. The Russian Federation, including its officials, agents or nationals.
2. Ukraine, including its officials, agents or nationals.
3. Investigations into the backgrounds of Paul Manafort, Rick Gates, Carter Page, retired Lt. Gen. Michael Flynn, and/or Roger Stone.
4. Any foreign travel (whether official or unofficial) by any employees, contractors, consultants, advisors or volunteers for Trump for America, Inc. (also known as the Presidential Transition Team) and Donald J. Trump for President, Inc.
5. Investigations by the United States Department of Justice, the United States Senate, or the United States House of Representatives (or any office, division or committee of any of the foregoing) concerning any of the subject matters set forth in items 1 through 4 above.

Fwd: PTT Document Preservation Memorandum

With this in mind, please immediately suspend any deletion, modification, overwriting, or other possible destruction of the information described above, including electronic information, and take all reasonable measures to preserve this information. Additionally, to the extent such materials or information were generated or obtained owing to your role on the Presidential Transition Team, please return the materials or information to the custody and control of the Presidential Transition Team at the following address:

Trump for America, Inc.
c/o Statecraft PLLC
649 North Fourth Avenue, Suite B
Phoenix, Arizona 85003

There is no need for you to return to us any materials saved to your ptt.gov email account or network drive, or that were already turned in as part of the offboarding process. Rather, please return to us such materials, if any, that were not saved to the Presidential Transition Team email system or network and are in your personal files or on your personal devices. If you do not have any such materials in your personal files or on your personal devices, there is no need for you to respond to this notice.

Should you have any questions regarding this notice, please do not hesitate to contact Kory Langhofer at (b) (6) or (b) (6)

Thank you for your attention to this important matter.

--

Emily

Re: PTT Documents

From: Kory Langhofer <(b) (6)>
To: Seth Greenfeld - LG <seth.greenfeld@gsa.gov>
CC: "richard.beckler@gsa.gov" <richard.beckler@gsa.gov>, Mike Morrissey <michael@mitchellsteincarey.com>, Thomas Basile <tom@statecraftlaw.com>, Chris Murray <cmurray@bhfs.com>, Lennard Loewentritt - L <lenny.loewentritt@gsa.gov>
Subject: Re: PTT Documents
Date: Wed, 21 Jun 2017 18:51:57 +0000
Message-ID: <67CD9F86-E105-4356-9AB0-50C94ABEF47A@statecraftlaw.com>
X-Source-Folder: 2018-000466--richard.beckler@gsa.gov_0
X-Email-Hash-MD5: c598aa568c9d9bb7dfabafbb4acba596

Thank you for the update, Seth
Talk to you soon

Kory Langhofer
STATECRAFT PLLC
[649 North Fourth Avenue, First Floor](#)
[Phoenix, Arizona 85003](#)
Desk: (b) (6)
Cell: (b) (6)

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On Jun 21, 2017, at 11:37 AM, Seth Greenfeld - LG <seth.greenfeld@gsa.gov> wrote:

I did get a call back today that we will have something this week, hopefully today. I have the copies ready to go as soon as we are given the all clear, so I can have the copies expedited to you.

Seth S. Greenfeld
Senior Assistant General Counsel
General Law Division, Office of General Counsel
U.S. General Services Administration
(202) 501-4560

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On Wed, Jun 21, 2017 at 2:30 PM, Kory Langhofer <(b) (6)> wrote:

Thank you, Seth. Perhaps all three entities (GSA, PTT, and FBI) should get on a call to work out a plan. We'll make ourselves available anytime.

Would it help if we contact Mueller's team as well? If so, who's your point of contact there?

Kory Langhofer
STATECRAFT PLLC
[649 North Fourth Avenue, First Floor](#)
[Phoenix, Arizona 85003](#)
Desk: (b) (6)
Cell: (b) (6)

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On Jun 21, 2017, at 5:25 AM, Seth Greenfeld - LG <seth.greenfeld@gsa.gov> wrote:

Good morning. Unfortunately, I have not heard anything yet, and we are frustrated too. I will ping DOJ again today.

Seth S. Greenfeld
Senior Assistant General Counsel

Re: PTT Documents

General Law Division, Office of General Counsel
U S General Services Administration
[\(202\) 501-4560](tel:(202)501-4560)

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On Tue, Jun 20, 2017 at 2:36 PM, Kory Langhofer <(b) (6)> wrote:

Richard and Seth: Can you provide an update on status? We are eager to start reviewing and producing emails.

Relatedly, we spoke with the Senate Intelligence Committee yesterday and they (a) made clear that they would like us to hasten this process and (b) stated that they will agree to the GSA providing a copy of the PTT documents to us (and they invited you to contact them to confirm this).

Happy to discuss at your convenience.

Kory Langhofer
STATECRAFT PLLC
649 North Fourth Avenue, First Floor
Phoenix, Arizona 85003
Desk: (b) (6)
Cell: (b) (6)

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On Jun 15, 2017, at 1:42 PM, Kory Langhofer <(b) (6)> wrote:

Richard and Seth:

Thanks again for making time for the call earlier today. As discussed, the attorneys copied on this message represent Trump for America, Inc., the nonprofit entity serving as the corporate form for the 2016 presidential transition team. For your records, I've attached the following:

- 1 Articles of Incorporation for the legal entity, naming the initial TFA directors
- 2 Resolution changing the entity's legal name to "Trump for America, Inc."
- 3 Letter designating the initial TFA directors as the GSA's points of contact for the transition team
- 4 Resolution replacing the initial TFA directors with interim TFA directors
- 5 Letter designating the interim TFA directors as the GSA's points of contact for the transition team
- 6 Resolution replacing the interim TFA directors with the current TFA directors (i.e., Ken Nahigian and Charles Gantt)
- 7 Letter designating the current TFA directors as the GSA's points of contact for the transition team

These documents establish that the current TFA directors (Ken Nahigian and Charles Gantt) are responsible for the 2016 presidential transition team. All of this is, of course, consistent with the GSA's course of conduct in working alongside and making reimbursement payments to TFA as the corporate form of the presidential transition team.

Please don't hesitate to call or write with any questions.

-Kory

Kory Langhofer
STATECRAFT PLLC
649 North Fourth Avenue, First Floor
Phoenix, Arizona 85003

Re: PTT Documents

Desk: (b) (6)

Cell: (b) (6)

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<Articles of Incorporation pdf>

<Certificate of Amendment pdf>

<Delegation of Authority 1 pdf>

<Delegation of Authority 2 pdf>

<Delegation of Authority 3 pdf>

<Unanimous Consent re Leadership Change 1 pdf>

<Unanimous Consent re Leadership Change 2 pdf>

Re: Missing PTT E-mail Accounts

From: Kory Langhofer <(b) (6)>
To: Seth Greenfeld - LG <seth.greenfeld@gsa.gov>
Subject: **Re: Missing PTT E-mail Accounts**
Date: Wed, 8 Nov 2017 19:12:26 +0000
Message-ID: <AEE80D8C-4F40-4B9B-85F0-2DA9684FE42F@statecraftlaw.com>
X-Source-Folder: 2018-000466-seth.greenfeld@gsa.gov_0
X-Email-Hash-MD5: 8a67dd79673d7b6a5f1497e891f5714b

Great Thank you, Seth

Kory Langhofer
STATECRAFT PLLC
[649 North Fourth Avenue, First Floor](#)
[Phoenix, Arizona 85003](#)
Desk: (b) (6)
Cell: (b) (6)

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On Nov 8, 2017, at 12:11 PM, Seth Greenfeld - LG <seth.greenfeld@gsa.gov> wrote:

I apologize. Apparently this fell off the radar. It will be sent to you as soon as possible.

Seth

On Wed, Nov 8, 2017 at 10:08 AM, Seth Greenfeld - LG <seth.greenfeld@gsa.gov> wrote:
Sure, and I'll let you know what I learn.

Seth

On Wed, Nov 8, 2017 at 12:00 AM, Kory Langhofer <(b) (6)> wrote:

Hello, Seth. I don't believe we ever received anything more from you IT folks on this. Would you mind checking on the status?

Kory Langhofer
STATECRAFT PLLC
[649 North Fourth Avenue, First Floor](#)
Phoenix, Arizona 85003
Desk: (b) (6)
Cell: (b) (6)

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From: Seth Greenfeld - LG <seth.greenfeld@gsa.gov>
Date: Thursday, October 5, 2017 at 10:38 AM
To: Kory Langhofer <(b) (6)>
Subject: Re: Missing PTT E-mail Accounts

Here is the spreadsheet from our IT. You will see some names like Pence and McFarland are on the "already provided" list. Our IT said they will do a full, new production to you, but it will be next week.

Re: Missing PTT E-mail Accounts

Seth S. Greenfeld
Senior Assistant General Counsel
General Law Division, Office of General Counsel
U S General Services Administration
[\(202\) 501-4560](tel:(202)501-4560)

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On Thu, Oct 5, 2017 at 12:55 PM, Seth Greenfeld - LG <seth.greenfeld@gsa.gov> wrote:

Some do not exist and some were already provided, according to our IT. I will double check.

Seth S. Greenfeld
Senior Assistant General Counsel
General Law Division, Office of General Counsel
U S General Services Administration
[\(202\) 501-4560](tel:(202)501-4560)

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On Thu, Oct 5, 2017 at 12:33 PM, Kory Langhofer <(b) (6)> wrote:

Thanks, Seth. So no accounts for Mike Pence, Jeff Sessions, KT McFarland, Charles Cooper, Josh Pitcock, or Ken Nahigian? Based on my quick review, those names struck me as the most senior/important people whose accounts we don't have yet.

Kory Langhofer
STATECRAFT PLLC

Re: Missing PTT E-mail Accounts

[649 North Fourth Avenue](#), First Floor

Phoenix, Arizona 85003

Desk: (b) (6)

Cell: (b) (6)

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From: Seth Greenfeld - LG <seth.greenfeld@gsa.gov>

Date: Thursday, October 5, 2017 at 6:00 AM

To: Kory Langhofer <(b) (6)>

Subject: Missing PTT E-mail Accounts

Good morning The GSA IT folks just informed me that they completed their review and there were 7 missing accounts in the information previously provided Those e-mail records are being assembled now and will be mailed to you when ready The accounts are:

1 James	Lawrence	Goyer IV
2 James	Moody	Proctor
3 John	Earl	Jaggers
4 Jonathan	Stephen	Spaner
5 Melinda	Sue Farris	Weed
6 Rebecca	Ann	Rosen
7 Ronald	Dean	Bonjean, Jr

Seth S Greenfeld

Senior Assistant General Counsel

General Law Division, Office of General Counsel

U S General Services Administration

[\(202\) 501-4560](tel:(202)501-4560)

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Fwd: Re: Follow up

Date: Wed, 13 Dec 2017 10:01:53 -0500
Message-ID: <CAKUJRM4MMDwtaaNHET+unLUfxM=H3uRdX+wXEUOaV6YSmebiSw@mail gmail.com>
Subject: **Fwd Re Follow up**
From: Seth Greenfeld - LG <seth.greenfeld@gsa.gov>
To: "Jack St. John - A" <jack.stjohn@gsa.gov>
X-Source-Folder: 2018-000466--seth.greenfeld@gsa.gov_0
X-Email-Hash-MD5: e9446254f6be5ec1b632ce12e01e0d84

Here is the second e-mail

Seth

----- Forwarded message -----

From: "Kory Langhofer" <(b) (6)>
Date: Dec 13, 2017 5:37 AM
Subject: Re: Follow up
To: "Seth Greenfeld - LG" <seth.greenfeld@gsa.gov>
Cc:

Seth: It occurs to me that, if the GSA provided hard drives and cell phones to the FBI without notifying the PTT, the GSA might have also provided PTT emails and/or other PTT records to the FBI without notifying the PTT Is that the case?

Kory Langhofer
STATECRAFT PLLC
649 North Fourth Avenue, First Floor
Phoenix, Arizona 85003
Desk: (b) (6)
Cell: (b) (6)

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On Dec 12, 2017, at 1:46 PM, Kory Langhofer <(b) (6)> wrote:

Thanks again, Seth I spoke with Mueller's team two times today after you and I talked, they provide a lot of background information about what happened and their current status They did, however, ask that I get two pieces of information from the GSA: the names of all the individuals whose hardware they have (apparently there are four or five people on their list who weren't on our list), and the date that they took possession of the hardware Can you provide that information, please?

Kory Langhofer
STATECRAFT PLLC
649 North Fourth Avenue, First Floor
Phoenix, Arizona 85003
Desk: (b) (6)
Cell: (b) (6)

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On Dec 12, 2017, at 1:41 PM, Seth Greenfeld - LG <seth.greenfeld@gsa.gov> wrote:

I believe it was a few months ago

On Tue, Dec 12, 2017 at 12:13 PM, Kory Langhofer <(b) (6)> wrote:
When did the GSA turn the materials over to the FBI?

Kory Langhofer
STATECRAFT PLLC
649 North Fourth Avenue, First Floor
Phoenix, Arizona 85003
Desk: (b) (6)
Cell: (b) (6)

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Fwd: Re: Follow up

Fwd: PTT Banners & Splash page

Date: Fri, 15 Dec 2017 15:46:50 -0500
Message-ID: <CAMREa5XEig=gj-a9tcJ-4fi_ZFb=Z1m0Kk5nVerdf02eXTLDKw@mail.gmail.com>
Subject: **Fwd: PTT Banners & Splash page**
From: "Jack St. John - A" <jack.stjohn@gsa.gov>
To: Kory Langhofer <(b) (6)>
X-Source-Folder: 2018-000466-jack.stjohn@gsa.gov_0
X-Email-Hash-MD5: 8eb86387e036082400060473375f6be4
Attachments: PTT Image from Laptop.jpg; PTT IT Acceptable Use Policy.pdf; PTT Splash Pages and Banners.pdf

Kory,

Please see attached

Thanks,
Jack

----- Forwarded message -----
From: **Seth Greenfeld - LG** <seth.greenfeld@gsa.gov>
Date: Fri, Dec 15, 2017 at 3:07 PM
Subject: PTT Banners & Splash page
To: "Jack St. John - A" <jack.stjohn@gsa.gov>

Here is the information you requested. Kory should have seen all of this when he was here working for the PTT

Seth S. Greenfeld
Senior Assistant General Counsel
General Law Division, Office of General Counsel
U.S. General Services Administration
(202) 501-4560

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--
Jack St. John
Chief of Staff and Acting General Counsel
General Services Administration
202-706-8130

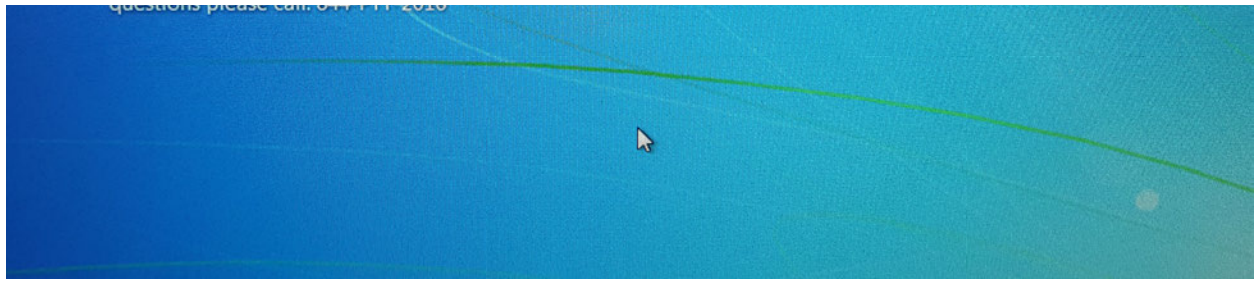
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Fwd: PTT Banners & Splash page



NoName

Embedded Attachments

(Double-click paper clip to extract file. Requires Adobe Acrobat Reader)

PTT Image from Laptop.jpg

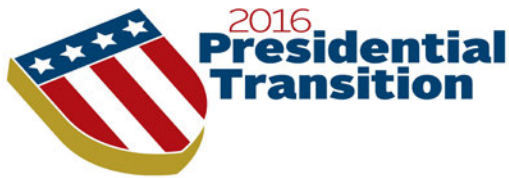
PTT IT Acceptable Use Policy.pdf

PTT Splash Pages and Banners.pdf

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PTT IT Acceptable Use Policy

Purpose: This policy sets forth the acceptable uses of the Presidential Transition Team (PTT) IT Assets for all PTT end-users. Pre-Elect and PTT End-Users may access PTT networks via Government Furnished Equipment (GFE). Personal IT assets will only have access to the Guest Network (Internet only) and must abide by the same guidelines as GFE. The security controls put in place to protect this environment are based on Government security regulations and policies, as well as security best practices.

Scope: This policy applies to all Pre-Elect and PTT End-Users and IT assets.

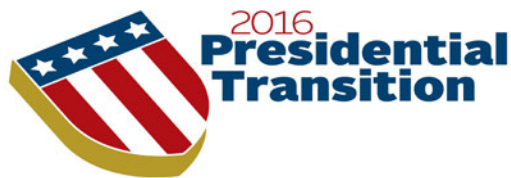
Objectives: The objectives of the IT Acceptable Use Policy are to ensure that all authorized users of PTT IT Assets are aware of their responsibilities and expected behavior when using Government resources. IT assets include GFE such as laptop computers, mobile devices, monitors, keyboards multi-functional devices (MFDs), as well as PTT-provided software and systems. The IT Acceptable Use Policy is designed to safeguard PTT resources and end-users from the effects of unauthorized access, misuse, malfunction, modification, destruction, or improper disclosure of information on the network.

Definitions:

- **PTT IT Assets** refer to IT assets owned or licensed by the Government (e.g., the PTT Network, PTT Guest Network, associated infrastructure, government-issued software, laptops, mobile devices, printers, monitors, also referred to as GFE)
- **Personal IT Assets** refer to IT assets that individual end-users own and use to access the guest wireless network (e.g., Bring Your Own Device (BYOD), personally owned laptop computers, cellular devices, or tablets)
- **Pre-Elect and PTT End-User** refer to any individual authorized to use PTT IT assets during the Pre-Elect and PTT periods of the 2016 PTT Project
- **Security Controls** refer to safeguards or countermeasures to avoid, counteract, or minimize security risks to the 2016 PTT Project, and includes, but is not limited to, Government-provided full disk encryption, anti-virus, and virtual private network software
- **Multi-function Devices (MFDs)** refer to printers that are capable of printing, scanning, copying and faxing

Ownership and Retention of IT Assets:

IT assets may be provided by the Government to Pre-Elect and PTT end-users for use in connection with the 2016 PTT Project. The Government retains all ownership of IT assets. Pre-



Elect and PTT end-users must relinquish all GFE at the end of their involvement with the PTT Project or as otherwise required by the Government team. Pre-Elect and PTT end-users may use personal IT assets for use in connection with PTT purposes, but these assets will only be able to connect to the PTT Guest Network. Pre-Elect and PTT end-users will retain all ownership of personal IT assets and will only be required to relinquish a personal IT asset to the Government if necessary (e.g., in connection with investigations of activities that put GSA at risk or policy violations; in connection with a security incident; in connection with the recovery of proprietary data; or in connection with other legitimate Government-related purposes).

Use of IT Assets:

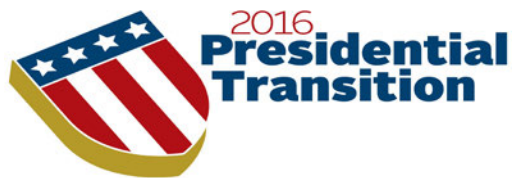
All Pre-Elect and PTT end-users of IT assets must:

- Comply with all Government-provided policies when using IT assets;
- Comply with relevant contractual requirements, (including license agreements for software that is downloaded, installed, or used on IT assets) regulations, and laws, including intellectual property laws, export control regulations, and third-party obligations in connection with the use of IT assets; and
- Install patches in a timely manner to maintain the functionality and security of end-user installed software whenever patches are available from vendors. Vendor patches and updates for end-user installed software are not supported by PTT's patching procedures. Please note that patches require a reboot to take effect.

All Pre-Elect and PTT End-Users of IT Assets must not:

- Use IT assets to access, send, receive, or store information that could be construed as defamatory, obscene, offensive, harassing, discriminatory, or profane;
- Replace software provided by the Government for use on IT assets, such as backup, encryption, peer-to-peer sharing software, and instant messaging software;
- Attempt to circumvent or disable any Security Controls;
- Share access credentials with others, including the PTT Help Desk or PTST Ambassadors;
- Access other Pre-Elect and PTT end-users' IT assets (including PTT IT assets and personal IT assets) without permission;
- Create or use non-PTT email services for PTT purposes (e.g., Yahoo, Hotmail, Gmail); or
- Share usernames and/or passwords with other individuals

Monitoring, Access, and Removal of/to IT Assets: While the Government respects the privacy of Pre-Elect and PTT End-Users, in order to maintain the confidentiality, integrity, and availability of PTT IT assets, the Government may be able to monitor and access PTT IT assets.



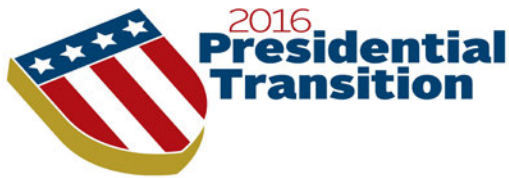
Any such access and monitoring will be done in compliance with all applicable laws, regulations, policies, and procedures. The use of automated tools will safeguard the sharing of proprietary and sensitive information outside the networks. Network data and communications will be monitored to keep the network infrastructure and end-users protected. In addition, the Government must be able to remove any IT assets found to be in violation of security policies.

End-users should have no expectation of privacy with respect to the use of PTT IT assets and personal IT assets connecting to the PTT guest wireless, including any information received by, sent from, or stored in/on PTT IT assets. Periodically, the Government may need to monitor or access internet traffic on personal IT assets if they have been connected to the PTT Guest Network. Such monitoring and access will only be done if necessary (i.e., in connection with investigations of activities that put the Government at risk or policy violations; in connection with a classified data spill or other security incident; in connection with the recovery of proprietary data; or in connection with other legitimate Government-related purposes). If it is necessary for the Government to monitor or access a personal IT asset, the Government team will take steps to limit such monitoring and access to only PTT-related information. The Government may remove any personal IT asset from connecting to or accessing the PTT Guest Network at any time as deemed necessary or desirable.

Security-related Incident Reporting: All Pre-Elect and PTT end-users must immediately report potential, suspected, and/or known information security-related incidents to the PTT Help Desk via email or at 1-844-788-2016. All end-users must cooperate with the PTT Help Desk, GSA, and/or other Government personnel throughout the security-related incident investigation and resolution process, to include:

- Following the instructions of PTT Help Desk, GSA, and/or Government personnel;
- Not rebooting any IT assets subject to a security-related incident without authorization from the PTT Help Desk, GSA, and/or Government personnel;
- Relinquishing IT assets and providing any required access information for IT assets subject to a security-related incident to PTT Help Desk, GSA, and/or Government personnel; and
- Not attempting to resolve a security-related incident without explicit direction from PTT Help Desk, GSA, and/or Government personnel.

Prohibited Software: The Government prohibits downloading, installing, and using certain categories of software on any IT assets, and may scan for and remove any such software from IT assets. In addition, the Government reserves the right to make changes to Pre-Elect and PTT end-user installed or PTT-provided software residing on PTT IT assets. This may include, but is not limited to, software filtering, blocking, configuration, or removal. The Government may at any



time and at its sole discretion, prohibit Pre-Elect and PTT end-users from using personal IT assets if such assets contain any prohibited software or if an end-user refuses to allow the Government to make changes to any PTT-provided software residing on such personal IT asset.

The following categories of software and services are prohibited:

- Network Scanning and Monitoring, Password Cracking and Exploit Software;
- Voice Over IP (VoIP) Software, which is not already provided by the Government;
- Desktop Indexing Software;
- Peer-to-Peer (P2P), Tor Based Activities and File Downloading / Sharing Software;
- Web-Based Data Storage and Synching Software and Storage; or
- Public Instant Messaging Software, which is not already provided by the Government.

A prohibited service (not software) may be used if requested by the Pre-Elect and PTT end-user in writing. If Pre-Elect and PTT end-users are unsure whether a specific software product is prohibited, they should contact the PTT Help Desk.

Use of Cloud-based IT Services: If Pre-Elect and PTT end-users require the use of cloud services, they should contact the PTT Help Desk.

Exceptions to this Policy: If there is a need for an exception to this policy, Pre-Elect and PTT end-users must submit an exception request with justification for the exception to the Government. In order to do this, Pre-Elect and PTT end-users should contact the PTT Help Desk.

I acknowledge that I received the IT Acceptable Use Policy and agree to abide by the terms stated above.

PTT User Name

Government Representative Name

PTT User Signature

Government Representative Signature

Date

Date

PTT Splash Pages and Banners

GFE Laptop:

The log on page for the GFE laptops states:

This is a U.S. General Services Administration Federal Government computer system that is FOR OFFICIAL USE ONLY. By accessing and using this computer you are agreeing to abide by the PTT General IT Rules and Behavior and are consenting to monitoring, recording, auditing and information retrieval for law enforcement and other purposes. Therefore, no expectation of privacy is to be assumed. Individuals found performing unauthorized activities are subject to disciplinary action including criminal prosecution. For additional questions please call: 1-800-PTT-2016

GFE Phones:

No banner installed on phones. But, all devices were required to connect to the PTT VPN; therefore, they all received the following GFE Desktop Banner:

This is a U.S. General Services Administration Federal Government computer system that is FOR OFFICIAL USE ONLY. By accessing and using this computer you are agreeing to abide by the PTT General IT Rules and Behavior and are consenting to monitoring, recording, auditing and information retrieval for law enforcement and other purposes. Therefore, no expectation of privacy is to be assumed. Individuals found performing unauthorized activities are subject to disciplinary action including criminal prosecution. For additional questions please call: 1-800-PTT-2016

GFE iPads:

No banner installed on iPads. But, all devices were required to connect to the PTT VPN; therefore, they all received the following GFE Desktop Banner:

This is a U.S. General Services Administration Federal Government computer system that is FOR OFFICIAL USE ONLY. By accessing and using this computer you are agreeing to abide by the PTT General IT Rules and Behavior and are consenting to monitoring, recording, auditing and information retrieval for law enforcement and other purposes. Therefore, no expectation of privacy is to be assumed. Individuals found performing unauthorized activities are subject to disciplinary action including criminal prosecution. For additional questions please call: 1-800-PTT-2016

Guest Network Splash Page:

When a user connects to Guest Wireless Network, they are routed to the following:

Text:

Please accept the policy: You are responsible for maintaining the confidentiality of the password and all activities that occur under your username and password. GSA offers the Service for activities such as the active use of e-mail, instant messaging, browsing the World Wide Web and accessing corporate intranets. High volume data transfers, especially sustained high volume data transfers, are not permitted. Hosting a web server or any other server by use of our Service is prohibited. Trying to access someone else's account, sending unsolicited bulk e-mail, collection of other people's personal data without their knowledge and interference with other network users are all prohibited. GSA reserves the right to suspend the Service if GSA reasonably believes that your use of the Service is unreasonably excessive or you are using the Service for criminal or illegal activities. You do not have the right to resell this Service to a third party. There is no expectation of privacy when you access the network. The Government has the right to monitor and access the network to ensure its integrity and availability, and to respond to confirmed or suspected breaches. GSA reserves the right to revise, amend or modify these Terms & Conditions, our other policies and agreements, and aspects of the Service itself.

Letter

Date: Sun, 17 Dec 2017 10:12 58 -0500
Message-ID: <CAMREa5WZ-hHAWGsoQPqmDJ2imPvniBARLo5C+66Q+FeuA3td0A@mail.gmail.com>
Subject: **Letter**
From: "Jack St. John - A" <jack.stjohn@gsa.gov>
To: Allison Brigati - M <allison.brigati@gsa.gov>
X-Source-Folder: 2018-000466--jack.stjohn@gsa.gov_0
X-Email-Hash-MD5: 9e9e004e453a47580a4c8afb526844b3
Attachments: Langhofer Letter .pdf

FYI

--
Jack St John
Chief of Staff and Acting General Counsel
General Services Administration
202-706-8130

CONFIDENTIALITY NOTICE

This email and any attachments contain confidential and legally privileged information. The information is intended only for the use of the individual or entity to whom it is addressed. Please do not forward this message without permission. If you are not the intended recipient, or the employee or agent responsible for delivering it to the intended recipient, you are hereby notified that any disclosure, copying, distribution or the taking of any action in reliance on the contents of this transmission is strictly prohibited. If you have received this transmission in error, please notify me immediately by telephone or return mail and delete and destroy the original email message, and any attachments thereto and all copies thereof.

Embedded Attachments

(Double-click paper clip to extract file. Requires Adobe Acrobat Reader)

Langhofer Letter .pdf

December 16, 2017

The Hon. Ron Johnson, Chairman
The Hon. Claire McCaskill, Ranking Member
U.S. Senate Committee on Homeland Security &
Governmental Affairs
340 Dirksen Senate Office Building
Washington, D.C. 20510

The Hon. Trey Gowdy, Chairman
The Hon. Elijah Cummings, Ranking Member
U.S. House Committee on Oversight &
Government Reform
2157 Rayburn House Office Building
Washington, D.C. 20515

Re: Unauthorized Review of Private, Privileged Materials by the Special Counsel's Office

Dear Senators and Representatives:

I write on behalf of Trump for America, Inc. ("TFA"), also known as the Presidential Transition Team ("PTT"), for the following purposes:

1. To inform the Committees of unlawful conduct that undermines the Presidential Transition Act of 1963, as amended, and will impair the ability of future presidential transition teams to candidly discuss policy and internal matters that benefit the country as a whole. More specifically, we write to inform you that (a) career staff at the General Services Administration ("GSA") have unlawfully produced TFA's private materials, including privileged communications, to the Special Counsel's Office; and (b) although the Special Counsel's Office was aware that the GSA did not own or control the records in question, the Special Counsel's Office has extensively used the materials in question, including portions that are susceptible to claims of privilege, and without notifying TFA or taking customary precautions to protect TFA's rights and privileges; and
2. To request that Congress act immediately to protect future presidential transitions from having their private records misappropriated by government agencies, particularly in the context of sensitive investigations intersecting with political motives.

I. TFA's Nature and Function

The Presidential Transition Act of 1963, as amended, contemplates the creation and operation of a private nonprofit organization to facilitate presidential transitions. *See* 3 U.S.C. § 102 note 2(h)(3)(A). For the 2016 presidential transition, TFA was the nonprofit organization that facilitated the orderly transition of executive authority from President Barack Obama to President Donald J. Trump. Its activities were funded partially through congressional appropriations and partially through dollar-limited private contributions. *See id.* note 6(c), 7(a). TFA is a private and independent nonprofit organization; it is not controlled by and does not share employees with the White House, the GSA, or other federal agencies. In fact, most PTT personnel are volunteers, acting in their personal capacity, to advance TFA's nonprofit mission of peacefully and efficiently transferring executive power.

The GSA played a statutorily defined role in supporting TFA and the 2016 transition. Specifically, the GSA "provided [to TFA] . . . [s]uitable office space appropriately equipped with furniture, furnishings, office

machines and equipment, and office supplies.” *Id.* note 3(a)(1). The GSA also hosted email services for TFA, and is statutorily required to “ensure that any computers or communications services provided . . . are secure.” *Id.* note 3(h)(2)(B)(ii).

Presidential transitions occupy a unique legal space. Although they undertake executive or quasi-executive functions and have certain rights associated with executive authority, they are not federal agencies. The authority supporting this conclusion includes the following:

- The Presidential Transition Act of 1963, as amended, provides that a presidential transition must be organized as a “separate fund” and operated as a private social welfare corporation pursuant to section 501(c)(4) of the Internal Revenue Code. *See* 3 U.S.C. § 2 note § 3(h)(3)(A). If presidential transition teams were governmental agencies, this requirement would be unnecessary. *See generally* Internal Revenue Service, 1990 Exempt Organization CPE, *available at* <https://www.irs.gov/pub/irs-tege/eotopice90.pdf> (discussing tax exemption for governmental entities).
- The U.S. Department of Justice has for nearly 30 years maintained that presidential transition entities are not “agencies” within the meaning of the Freedom of Information Act. This interpretation was most recently affirmed during the Obama Administration. *See* U.S. Dep’t of Justice, *FOIA Counselor: Transition Team FOIA Issues*, *FOIA Update*, Vol. IX, No. 4 (Jan. 1, 1988, rev. Sept. 1, 2016), *available at* <https://www.justice.gov/oip/foia-update-foia-counselor-transition-team-foia-issues>.
- The National Archives recently advised that “[t]he materials that [presidential transition team] members create or receive are not Federal or Presidential records, but are considered private materials.” Again, this advice was promulgated during the Obama Administration. *See* National Archives and Records Administration Bulletin A.C. 09.2017, *Memorandum from Laurence Brewer, Chief Records Officer for the U.S. Government, to Federal Agency Records Officers*, Nov. 16, 2016, *available at* <https://www.archives.gov/records-mgmt/memos/ac09-2017>.
- The Presidential Transition Act contemplates that the White House, the GSA, and other federal agencies will enter, and the GSA for many years has entered, into arms-length contracts with eligible presidential candidates to assist the presidential transition process. *See, e.g.*, Memorandum of Understanding between the GSA and Hillary Clinton, Aug. 5, 2016; Memorandum of Understanding between the GSA and Donald J. Trump, Aug. 1, 2016 (“MOU”); Memorandum of Understanding between the GSA and the Romney Readiness Project, Sept. 17, 2012; Memorandum of Understanding between the Obama-Biden Transition Project and the GSA, Nov. 5, 2008. If presidential transition teams were federal agencies, such contracts would be unnecessary.
- The MOU provided that the GSA would delete “all data on [computing] devices” used by the PTT. *See* MOU ¶ pp. 3, 10. This is both (a) is consistent with memoranda of understanding that the GSA executed with Hillary Clinton and Mitt Romney and (b) would be unlawful if presidential transition records were public records.
- The agreement between the Obama White House and TFA expressly stated that the parties intended to “protect the confidentiality of transition information made available to the Government.” *See* Memorandum of Understanding Regarding Transition Procedures, Identification, of Transition

Contacts, and Access to Non-Public Government and Transition Information ¶ 3, Nov. 8, 2016. Such a confidentiality provision would be unlawful if TFA were a government agency.

- TFA has always secured the central indicia of organizational ownership and control, including personnel decisions, the execution of contracts with third parties without federal procurement regulations, and, crucially, the generation and maintenance of internal documents and records.

In the 54 years since Congress first codified a statutory scheme governing the transition process, the fundamental structure and character of presidential transition teams have remained unchanged: They are private organizations controlled and managed by the President-Elects and their authorized designees, not by outgoing Presidents, their executive agencies, or other governmental entities. Indeed, if transition teams were part of the federal government, which until Inauguration Day is led by the outgoing President, it would subvert the very purpose of a transition team. Communications infrastructure and other platforms supplied by the GSA to a presidential transition team (*e.g.*, email accounts) are solely for the convenience and assistance of the transition team; they plainly are not a mechanism for a federal agency to commandeer the confidential documents of a private, nonprofit organization.

For these reasons, during the mandatory onboarding orientation for all PTT personnel, TFA informed new PTT staffers and volunteers that PTT emails are properly considered private records.

II. Improper Disclosure, Review, and Use of PTT Materials

After Inauguration Day on January 20, 2017, TFA wound down the bulk of its activities, vacated the premises provided by the GSA, and returned to the GSA the computer and telephone equipment that TFA had used during the transition period. Shortly thereafter, the GSA asked TFA for direction on the disposition of PTT data. TFA directed the GSA to handle PTT data in a manner consistent with the MOU and the reported disposition of data from President Obama's presidential transition in 2008; computing devices were to be restored to original settings and reissued to federal personnel and, to the extent that PTT records were not required for the winding down of TFA's affairs, the PTT email archives were no longer to be preserved.

Approximately two months later, TFA became aware of certain requests concerning PTT records. TFA promptly instructed the GSA, as the custodian of certain TFA records including PTT emails hosted on GSA servers, and others to preserve PTT records. Because of TFA's prompt reaction, all PTT emails have been preserved.

In order to comply with congressional document production requests, TFA ordered from the GSA electronic copies of all PTT emails and other data. Career GSA staff initially expressed concern that providing copies of PTT emails to TFA might violate a document preservation request that the GSA had received from the Special Counsel's Office. This issue was resolved decisively on June 15, 2017 after a series of emails and telephone calls between TFA's legal counsel and Richard Beckler and Lenny Loewentritt, the newly appointed General Counsel for the GSA and the career Deputy General Counsel for the GSA, respectively. After discussion and consideration of the issue, Mr. Beckler acknowledged unequivocally to TFA's legal counsel, in the presence of Mr. Loewentritt, that TFA owned and controlled the PTT emails and data pursuant to the Presidential Transition Act, and that the GSA had no right to access or control the records but was simply serving as TFA's records custodian. Mr. Beckler assured legal counsel for TFA, again in the presence of Mr. Loewentritt, that any requests for the production of PTT

records would therefore be routed to legal counsel for TFA. In the meantime, Mr. Beckler agreed to maintain all computer equipment in a secure, locked space within GSA facilities. There are multiple surviving witnesses to this conversation, including me. Additionally, we understand that the following day, June 16, 2017, Mr. Beckler personally informed the Special Counsel's Office that PTT records are not owned or controlled by the GSA, and that the Special Counsel's Office should communicate with TFA if it desired to obtain PTT records.

It is our understanding that Mr. Beckler was hospitalized and incapacitated in August 2017. Notwithstanding Mr. Beckler's June 16, 2017 instruction to the Special Counsel's Office concerning the ownership and control of PTT records, the Special Counsel's Office, through the Federal Bureau of Investigation ("FBI"), sent to the GSA two requests for the production of PTT materials while Mr. Beckler was hospitalized and unable to supervise legal matters for the GSA. Specifically, on August 23, 2017, the FBI sent a letter (*i.e.*, not a subpoena) to career GSA staff requesting copies of the emails, laptops, cell phones, and other materials associated with nine PTT members responsible for national security and policy matters. On August 30, 2017, the FBI sent a letter (again, not a subpoena) to career GSA staff requesting such materials for four additional senior PTT members.

Career GSA staff, working with Mr. Loewentritt and at the direction of the FBI, immediately produced all the materials requested by the Special Counsel's Office – without notifying TFA or filtering or redacting privileged material. The materials produced by the GSA to the Special Counsel's Office therefore included materials protected by the attorney-client privilege, the deliberative process privilege, and the presidential communications privilege. It is our understanding that Mr. Beckler passed away without returning to the GSA, and that career GSA staff (including Mr. Loewentritt) never consulted with or informed Mr. Beckler or his successor of the unauthorized production of PTT materials.

The unauthorized production of PTT materials by career GSA staff violates (a) the GSA's duties to TFA pursuant to the GSA's previous acknowledgement concerning TFA's rightful ownership and control of PTT materials; (b) the statute requiring the GSA to "ensure that any computers or communications services provided to an eligible candidate . . . are secure," 3 U.S.C. § 102 note 3(h)(2)(B)(ii); and (c) the Fourth Amendment's prohibition on a government actor (*e.g.*, Mr. Loewentritt), or a private actor working at the request of a government official, failing to obtain a warrant for the search or seizure of private property in which the owner has a reasonable expectation of privacy, *see Coolidge v. New Hampshire*, 403 U.S. 443, 489 (1971).

We understand that the Special Counsel's Office has subsequently made extensive use of the materials it obtained from the GSA, including materials that are susceptible to privilege claims. Additionally, certain portions of the PTT materials the Special Counsel's Office obtained from the GSA, including materials that are susceptible to privilege claims, have been leaked to the press by unknown persons. Moreover, the leaked records have been provided to the press without important context and in a manner that appears calculated to inflict maximum reputational damage on the PTT and its personnel, without the inclusion of records showing that PTT personnel acted properly – which in turn forces TFA to make an impossible choice between (a) protecting its legal privileges by keeping its records confidential and (b) waiving its privileges by publicly releasing records that counteract the selective leaks and misguided news reports. In short, since the GSA improperly provided them to the Special Counsel's Office, the PTT's privileged materials have not only been reviewed privately by the Special Counsel's Office without notification to TFA – they have also been misused publicly.

We discovered the unauthorized disclosures by the GSA on December 12 and 13, 2017. When we learned that the Special Counsel's Office had received certain laptops and cell phones containing privileged materials, we initially raised our concerns with Brandon Van Grack in the Special Counsel's Office on December 12, 2017. Mr. Van Grack confirmed that the Special Counsel's Office had obtained certain laptops, cell phones, and at least one iPad from the GSA – but he assured us that the Special Counsel's investigation did not recover any emails or other relevant data from that hardware. During this exchange, Mr. Van Grack failed to disclose the critical fact that undercut the importance of his representations, namely, that the Special Counsel's Office had simultaneously received from the GSA tens of thousands of emails, including a very significant volume of privileged material, and that the Special Counsel's Office was actively using those materials without any notice to TFA.¹ Mr. Van Grack also declined to inform us of the identities of the 13 individuals whose materials were at issue. We followed up with Mr. Van Grack the next day after learning of the unauthorized disclosure of PTT emails to ask what procedures, if any, had been implemented to protect privileged PTT communications from unauthorized and improper review. Mr. Van Grack declined to respond at the time, but contacted us on December 15, 2017 to inform us that the Special Counsel's Office had, in fact, failed to use an “ethical wall” or “taint team” and instead simply reviewed the privileged communications contained in the PTT materials. Mr. Van Grack also acknowledged on the December 12, 2017 telephone call that, even before we contacted him, the Special Counsel's Office had been aware of the importance and sensitivity of the privilege issues that we raised.

III. Statutory Amendments Are Necessary to Protect Future Presidential Transitions

The GSA's malfeasance in this matter necessitates a legislative response. As described above, career GSA staff subverted a congressional directive to support and assist presidential transitions with “secure” communications into a license to seize and misappropriate privileged documents and records. Whether born of a gross misunderstanding of the Presidential Transition Act or a deliberate attempt to violate the rights of TFA, the actions of career GSA staff underscore the need for immediate statutory amendments to protect future presidential transitions from bureaucratic arrogations and political interference. To this end, we respectfully propose two statutory amendments.

1. Timely Notice to Presidential Transition Teams of Document Production Requests

Although the Presidential Transition Act does not abridge – and indeed, fully preserves – control of internal documents and records by transition entities and their private boards of directors, the GSA's conduct underscores the need for more robust statutory protections. In furtherance of Congress' clear intent that the GSA's role is to support and assist – not usurp – transition functions, the Presidential Transition Act should fortify safeguards for presidential documents and records that may be stored in GSA computer systems. Specifically, Congress should provide that if the GSA receives any request or demand for a transition entity's documents – including but not limited to subpoenas or other legal process issued by courts or law enforcement agencies – it must provide to the presidential transition team notice and an opportunity to respond, object, or intervene before it reviews or produces any such documents or materials.

¹ On two other occasions after the GSA improperly provided PTT records to the Special Counsel's Office, legal counsel for TFA had stated to the Special Counsel's Office that the Special Counsel's Office had never requested or received PTT records. On both occasions, as on the December 12, 2017 telephone call with Mr. Van Grack, the Special Counsel's Office failed to correct the record or disclose that, at the time of those discussions, the Special Counsel's Office was already in possession of and had accessed a significant volume of privileged PTT materials.

2. Limitations on the Government's Access to Potentially Privileged Materials

As discussed above, the GSA's unlawful production of TFA's internal records was exacerbated by the Special Counsel's Office failure to preserve and respect the legal privileges that attach to a large number of those documents. More generally, however, the GSA's and the Special Counsel's Office's misconduct in this matter demonstrates why investigators and government attorneys, who in many cases are not entirely neutral, should not be trusted to decide without proper oversight which records belonging to private parties are privileged.

In theory, investigators and attorneys can establish "ethical walls" or "taint teams" to review potentially privileged materials, and then pass only non-privileged materials on to the investigators and attorneys who are primarily responsible for a case. This process ostensibly prevents the investigators and attorneys primarily responsible for enforcement decisions from basing their decisions on private, privileged materials.

In practice, however, this procedure is fraught with the potential for both intentional misconduct and innocent mistakes – to the severe detriment of the individuals or entities whose privileged communications fall into the hands of adverse government officials or witnesses. *See generally United States v. North*, 920 F.2d 940, 942 (D.C. Cir. 1990) (noting that witnesses' exposure to inadmissible evidence can impermissibly "taint their trial testimony irrespective of the prosecution's role in the exposure"). For this reason, "[f]ederal courts have taken a skeptical view of the government's use of 'taint teams,'" *United States v. SDI Future Health, Inc.*, 464 F. Supp. 2d 1027, 1037 (D. Nev. 2006), and have held that "the government's affirmative decision to invoke these [taint team] procedures constitutes a *per se* intentional intrusion" into relationships and communications protected by legal privileges, *see United States v. Neill*, 952 F. Supp. 834, 840–41 (D.D.C. 1997). Because it is "logical to suppose that taint teams pose a serious risk to holders of privilege, and this supposition is substantiated by past experience," *In re Grand Jury Subpoenas*, 454 F.3d 511, 523 (6th Cir. 2006), constitutional and policy considerations have prompted many courts to significantly curtail, and at times outright reject, their use.

These concerns are especially acute in investigations that implicate legislative, executive, or judicial functions and the attendant privileges that may attach to them. *See United States v. Rayburn House Office Buildings, Room 2113*, 497 F.3d 654 (D.C. Cir. 2007) (holding that a taint team was inappropriate and violated a congressman's right to independently review and assert legislative privilege over documents). While transition teams and their members are not immune from the lawful search and seizure of their documents and records, it is vital that these investigations be conducted within the parameters of procedural safeguards that preserve legitimate privileges – many of which have a constitutional provenance. *See id.* at 661 (emphasizing the need "to distinguish between the lawfulness of searching a congressional office pursuant to a search warrant and the lawfulness of *the manner in which the search is executed* in view of the protections afforded against compelled disclosure of legislative materials" (emphasis added)).

And as this matter demonstrates, entrusting the implementation of ethical walls and taint teams to investigators and attorneys who may not be entirely neutral, without proper oversight, can result in their failure to implement any process, however flawed, to protect the privileges of private parties. Such failures not only harm the parties whose information is improperly obtained and reviewed, but also the investigators themselves, whose investigation is tainted by the use of privileged materials.

To this end, Congress should provide that, unless exigencies of public safety or national security require otherwise, any federal official or agency in possession of a third party's documents or information (through whatever means) must provide the rightful owner an opportunity to identify and assert privilege, subject to customary judicial oversight, over such materials before the federal official or agency (or any of its agents or designees) may view or access their contents. Such legislative protections are particularly crucial in the context of investigations focusing on political activities or the discharge of legislative, executive, or judicial responsibilities. As recent events have unfortunately illustrated, such inquiries are especially vulnerable to the taint of partisan agendas, political bias, and other malign machinations.

* * *

We hope this letter is useful in discharging your oversight responsibilities, ensuring the integrity of the Special Counsel's investigation, and crafting appropriate legislation.

Please do not hesitate to contact TFA should you have any questions or require additional information.

Respectfully,

/s/ Kory Langhofer

Kory Langhofer

Counsel to Trump for America, Inc.

Cc: Ken Nahigian, TFA Trustee and Executive Director
Charles Gantt, TFA Trustee and Chief Financial Officer